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**Consideration of reports submitted by States parties under article 40 of the Covenant**

# List of issues in relation to the third periodic report of Lebanon

**Addendum**

## Replies of Lebanon to the list of issues*, **

[Date received: 5 March 2018]

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# I. The constitutional and legal framework in which the International Covenant on Civil and Political Rights is implemented

## 1. The legal status of the International Covenant on Civil and Political Rights with respect to the Constitution and domestic laws

1. Paragraph B of the preamble to the Lebanese Constitution stipulates that: "Lebanon is Arab in its identity and in its affiliation. It is a founding and active member of the League of Arab States and abides by its pacts and covenants. Lebanon is also a founding and active member of the United Nations Organization and abides by its treaties and by the Universal Declaration of Human Rights. The Government shall embody these principles in all fields and areas without exception."

2. All provisions of the above-mentioned international covenants and treaties enjoy the status of constitutional provisions. This is confirmed by the jurisprudence of the Constitutional Council, which ruled that the Universal Declaration of Human Rights (1948), the International Covenant on Civil and Political Rights (1966), the International Covenant on Economic, Social and Cultural Rights (1966) and the Arab Charter of Human Rights, which are mentioned in the preamble to the Constitution, constitute international instruments whose provisions enjoy constitutional status on an equal basis with the other provisions of the Constitution.

3. Article 2 of the Code of Civil Procedure stipulates in this connection that: "The courts shall comply with the principle of the rules of hierarchy".

4. It adds that: "In the event of conflict between the provisions of international treaties and those of ordinary law, the former shall take precedence over the latter. Courts shall not declare the legislative authority's activities null and void on the grounds of inconsistency of ordinary laws with the Constitution or international treaties."

5. It may be concluded from article 2 cited above, which endorses Kelsen's rules governing the hierarchy of legal norms, that the provisions of international treaties prevail over the provisions of domestic law. If there is any conflict between the provisions of international covenants and treaties and the provisions of domestic law, the judge must apply the provisions of the international treaties rather than those of domestic law (legislation and administrative decisions). Many rulings have been issued in this regard.

6. In light of the foregoing, particularly the provisions of paragraph B of the Constitution and paragraph 2 of the Code of Civil Procedure and the jurisprudence of the Constitutional Council, it may be concluded that the provisions of the International Covenant on Civil and Political Rights "have constitutional status" and are deemed to supplement the provisions of the Constitution.

7. They also prevail over the provisions of domestic law and over administrative decisions.

## 2. Judicial rulings in which the provisions of the International Covenant on Civil and Political Rights were invoked

8. The provisions of the International Covenant on Civil and Political Rights have been invoked by the Lebanese judiciary, especially by summary trial and criminal court judges, in many rulings.

9. We shall highlight in an annex hereto some of the judgments in which the provisions of the International Covenant on Civil and Political Rights were invoked by the Lebanese courts.

### 3. Practical steps taken to transcend the system of confessionalism in Lebanon

10. The State takes many steps to address the root causes of confessionalism, such as prejudice, intolerance and a sense of privilege. In particular, it has adopted organizational and educational measures aimed at giving a general sense of nationality precedence over a specific sense of confessionalism.

11. Act No. 44 of 17 July 2017 based on relativity is a positive step towards the abolition of confessionalism. A bill is also being considered in the Chamber of Deputies aimed at promoting administrative decentralization and the work of the municipalities.

## II. Non-discrimination and equality between women and men

### 1. Protection of women and other family members from domestic violence, prevention of sexual harassment and elimination in rape cases of the mitigating circumstance of the rapist's marriage to the victim

12. See section IV below.

### 2. Homosexuals

13. Lebanese law continues to criminalize intercourse that is contrary to nature (article 534 of the Criminal Code), and most judges still consider that intercourse between persons of the same sex is contrary to nature and liable to prosecution.

14. Attention should be drawn, however, to the following important issues, which reflect an evolution in the State's view on the matter:

(a) The judiciary imposes lenient penalties for the offence of intercourse contrary to nature. While the law prescribes a penalty of imprisonment, judges usually replace that penalty with a fine. Homosexuals are arrested only in very rare and exceptional cases for committing the offence of intercourse contrary to nature;

(b) The legal provisions aimed at preventing torture during judicial investigations and at safeguarding the rights of detainees before the courts are applicable to all persons, regardless of their sexual orientation or sexual identity. The complaint system guarantees the right of all detainees to file a complaint through the official channels of redress, regardless of their sexual orientation or identity and of whether they are detainees or convicted persons;

(c) Four court rulings handed down by judges specializing in misdemeanours and infractions (the first in 2009, the second in 2014, the third in 2016 and the fourth in 2017) recognized the rights of homosexuals. The four rulings remain segregated from the majority of judicial rulings in this regard, which continue to criminalize homosexual practices;

(d) In the same context, the Public Prosecutor's Office of the Court of Cassation issued a circular to members of the Public Prosecution Service on 28 January 2018 prohibiting the conduct of anal examinations to obtain evidence of intercourse between homosexuals. Furthermore, the Chief Medical Officer issued a decree prohibiting forensic physicians from conducting such examinations. Law enforcement officers do not resort to such examinations during the various stages of investigation or during arrests.

### 3. Equality between women and men in the area of family rights

15. Article 9 of the Constitution stipulates that freedom of belief is absolute and requires the State to respect all religions and creeds and to guarantee respect for the personal status

and religious interests of the population, regardless of the religious community to which they belong.

16. Accordingly, equal matrimonial rights for women and men in the conclusion, implementation and dissolution of the marriage contract as well as equality in matters of inheritance are subject to the personal status system of each religious denomination.

17. The enactment of standard civil legislation for all communities in order to address the issue of personal status is regarded in Lebanese society as a controversial issue that is difficult to resolve at the current stage, especially because of the denominational specificity of the existing personal status regime.

18. A bill submitted by the Minister of State for Women's Affairs aimed at granting fathers paternity leave was referred to the Chamber of Deputies on 19 December 2017.

19. A bill submitted by the Minister of State for Women's Affairs aimed at amending certain provisions of the Social Security Act to ensure gender equality in access to benefits from the National Social Security Fund was referred to the Chamber of Deputies on 19 December 2017.

## 4. The right to an optional civil marriage

20. Recognition by the official authorities of civil marriages contracted in Lebanon still raises some difficulties, despite the fact that recognition of civil marriages contracted between Lebanese nationals abroad does not pose any problems.

21. While the Minister of the Interior and Municipalities refused in 2014 to register a civil marriage contracted in Lebanon before a notary between two Lebanese nationals who were not registered as belonging to any religious denomination, the Supreme Advisory Council of the Ministry of Justice issued a legal opinion that upholds the right of Lebanese nationals who do not belong to a denomination to conclude a civil marriage contract in Lebanon before a notary and to have their marriage documents recorded in the Lebanese civil registry.

22. The issue of legislation on optional civil marriage contracts is still under discussion among Lebanese State officials.

## 5. The right of women to transfer their citizenship

23. The issue of whether Lebanese women should be entitled to transfer their citizenship to their children or a foreign spouse in the same way as Lebanese men who are married to a foreign spouse continues to be a source of conflicting opinion among the various Lebanese political parties.

24. However, on 21 March 2012 the Lebanese Government established a ministerial committee to consider amending the final paragraph of article 4 of Decision No. 15 of 19 January 1925 (the Nationality Act) as a first step towards addressing the right of Lebanese women to transfer their citizenship to their families.

25. In the same context, the Government issued Decree No. 4186 on 31 May 2010, which stipulated that a three-year renewable courtesy residence permit should be granted to the foreign husband of any Lebanese women one year after their marriage and to the children of any Lebanese woman married to a foreign husband, whether they were adults or minors and regardless of whether they were employed. Civil society is still highly active in this area.

## 6. Stereotypical portrayal of the role of women in the family and society

26. There is no stereotype regarding the role of Lebanese women. Their role is not confined to family-building and raising children, and they have succeeded in entering the labour market and acquiring leadership positions in both the public and private sectors.

Recent years have witnessed an increase in the proportion of women preforming both field work and administrative activities in all security services.

27. It should be underscored in this context that the Ministry of Education and Higher Education, the National Commission for Lebanese Women and the Ministry of State for Women's Affairs have organized awareness-raising sessions on women's leading role in society in schools and universities and in diverse regions of Lebanon, particularly in remote rural areas.

28. Act No. 46 of 21 August 2017 is entitled "Raising the minimum wage and cost-of-living allowance for employees, contractual workers and wage-earners in public administrations, the Lebanese University, municipalities, federations of municipalities and public institutions that are not subject to the Labour Code, and amendment of salaries of public administration staff, members of the Education Department of the Ministry of Education and Higher Education and the military corps". Article 24 of the Act entitles a married female employee to benefit from half-time employment for a maximum of three years during her period of service. The article adds, however, that a year of half-time employment is calculated as half a year of actual service for the purpose of promotion, end-of-service payments, pensions and pension deductions.

29. The Minister of State for Women's Affairs prepared a bill aimed at amending the article so that a year of half-time employment would be calculated as a full year if the employee decided to pay the full amount of pension deductions.

## 7. Women's participation in political life

30. The special attention given by both the President of the Republic and the Prime Minister to Lebanese women was reflected, during the formation of the Government in early 2017, in the establishment of a ministerial portfolio for human rights and a ministerial portfolio for women. A woman holds the office of Minister of State for Administrative Reform in the present Government.

31. There is no legal impediment to women's participation in political life or to their holding of ministerial or parliamentary offices. Nevertheless, their role in the Government and the Chamber of Deputies is still modest.

32. The Ministry of State for Women's Affairs and the National Commission for Lebanese Women, in cooperation with civil society organizations, are launching awareness-raising campaigns and organizing training courses for women in order to support them and enhance their role in political life.

33. Efforts are being made at various levels to promote the participation of Lebanese women in political life by allocating them a quota of seats in parliamentary and municipal councils as well as in the Government. In addition, many Lebanese parties have announced their intention to reserve a proportion of their nominations for seats in the forthcoming Chamber of Deputies for women.

34. Drawing on the bill submitted by the National Commission for Lebanese Women, the Chamber of Deputies amended article 25 of Act No. 665 of 29 December 1997, which amended Legislative Decree No. 118 of 30 June 1977 (the Municipalities Act), by adding a provision enshrining "the right of married women, whose registration records were transferred upon marriage to another municipality, to be nominated for a seat on the council of the municipality in which their names appeared on the electoral list prior to marriage" (Act No. 61 of 17 October 2017 promulgated in Official Gazette No. 49 of 19 October 2017).

35. The Ministry of State for Women's Affairs has also drafted a bill aimed at amending the Municipalities Act so that women who have been elected to a municipal council will not lose their status if their place of registration changes as a result of marriage.

36. The Ministry of Justice has participated in workshops, in cooperation with civil society organizations, aimed at surmounting barriers to the empowerment of women and encouraging them to participate in political life.

## III. State of emergency

37. No measures have been taken to amend the provisions of Legislative Decree No. 102/83 because, following the repeal of the state of emergency proclaimed by Decree No. 7988 of 27 February 1996, the Government has not declared a state of emergency during the period from 1997 to 2018 despite repeated security crises and terrorist attacks in various regions.

38. However, it should be noted that the report specified the legal conditions for declaring a state of emergency. The Constitution requires that a decision be taken in the presence of a two-thirds majority of members of the Council of Ministers and must be adopted by a two-thirds majority of Government ministers in exceptional and exclusive circumstances (see paras. 43, 44 and 45 of the report). When it is declared and the army is tasked with maintaining security, the armed forces must comply with international human rights standards.

## IV. Violence against women, including domestic violence

### 1. Domestic violence

39. The Lebanese State has taken many measures to address the phenomenon of domestic violence against women. Perhaps the approval by the Lebanese Government at its meeting on 3 August 2017 of amendments to Act No. 293/2014 concerning "The protection of women and other family members from domestic violence", which were proposed by the Minister of Justice in partnership with the Minister of State for Women's Affairs, the Minister of State for Human Rights and civil society organizations supporting women's issues, best reflects the intention of all State bodies to provide protection for women, children and other vulnerable family members. The bill has been referred to the Chamber of Deputies for adoption.

40. The following are the principal amendments proposed to the Act:

(a) Adoption of a definition of domestic violence that complies with international norms and is based on abuse of authority in the family. The proposed text stipulates that domestic violence is "any act or omission or threat thereof, which reflects abuse of authority in the family through the use of physical or other force by one family member against one or more other members, in accordance with the concept set out in the definition of the family, which results in death or in the infliction of physical, psychological, sexual or economic harm";

(b) Recognition of the offence of domestic violence as a separate offence, ensuring greater clarity in the legal text and facilitating its implementation and the prosecution of all possible criminal consequences of domestic violence, ranging from intentional or unintentional killing to sexual exploitation, forced begging, deprivation of liberty, physical and moral abuse, and economic violence;

(c) Introduction of the principle of speciality into the prosecution, investigation and judgment of such offences, since this would lead to greater, more effective and speedier protection of women and all family members from domestic violence;

(d) Adoption of the age of majority rather than the age of custody as the legal standard for protecting children from domestic violence;

(e) Ensuring that women and children are adequately protected in view of the specificity of domestic violence, which reflects power-based relations within and outside the family and therefore warrants special treatment.

41. The Internal Security Forces also adopted a general strategic policy for the period from 2018 to 2023 based on the principle of partnership with civil society. They organized, in coordination with civil society, training courses on best practices for implementation of the law and the introduction of relevant information and data.

42. The Ministry of Social Affairs, in partnership with civil society and in coordination with the Ministry of the Interior and Municipalities, the Ministry of Public Health and the Ministry of Justice, is establishing standard national operating procedures for addressing gender-based violence in Lebanon by developing procedures for the referral system and mechanisms for coordination and cooperation among key stakeholders in order to mitigate the consequences of violence and to enhance the quality of services provided to survivors.

## 2. Non-criminalization of marital rape

43. Criminalization of marital rape remains a contentious issue among the political parties represented in the Chamber of Deputies. It should be noted, however, that the proposed amendments to the Act on domestic violence delete the term "marital rights" and stipulate that violence against women for the purpose of intercourse or on that ground constitutes an aggravating circumstance when it comes to the imposition of penalties.

## 3. Discriminatory provisions with regard to the criminalization of adultery

44. Articles 487, 488 and 489 of Act No. 293 concerning "The protection of women and other family members from domestic violence" provides for the equality of women and men with regard to so-called crimes of adultery.

## 4. "Honour" crimes

45. On 17 August 2011, the Chamber of Deputies adopted Act No. 162 abolishing the extenuating circumstances provided in article 562 of the Criminal Code for any man who kills or injures his wife, a progenitor or descendant, or his sister on the grounds that she has committed adultery or engaged in illicit intercourse (so-called "honour crimes").

## 5. Repeal of article 522 of the Criminal Code

46. On 16 August 2017, the Chamber of Deputies adopted a proposal submitted by the Administration and Justice Committee to repeal article 522 of the Lebanese Criminal Code, which provides for the termination of prosecution proceedings or suspension of the enforcement of a judgment if a valid marriage contract has been concluded between the perpetrator of an offence (rape, kidnapping for the purpose of marriage ...) and the victim. Act No. 53 was adopted and promulgated on 14 September 2017.

47. The Lebanese State has taken a qualitative step forward by amending certain provisions of the Criminal Code concerning rape and acts of indecency, namely articles 503 to 522 contained in Section I of Chapter VII of Book II of the Lebanese Criminal Code promulgated in 1943.

48. The Lebanese Ministry of Justice participated in the discussions held in the Administration and Justice Committee of the Lebanese Chamber of Deputies on the amendments to the above-mentioned provisions. Thus, article 522 of the Criminal Code concerning the offence of rape was repealed, the terms applicable to acts of indecency were modified, and harsher sanctions were imposed under most of the articles contained in the above-mentioned section.

49. Article 522 of the Criminal Code stipulated that: "If a valid marriage is contracted between the perpetrator of one of the offences defined in this section and the victim, the prosecution shall cease, and if a judgment is handed down in the case, enforcement of the penalty imposed on the offender shall be suspended. Prosecution or enforcement of the penalty shall be resumed if, within three years of a misdemeanour or five years of a felony, the marriage ends either because the woman is divorced without a legitimate ground or because a divorce is ordered in the interests of the victim."

50. While the implications of article 522 for articles 505 and 518[1] of the Criminal Code remain in respect of acts of indecency perpetrated against a minor girl aged between 15 and 18 years, the perpetrator's marriage to the victim does not necessarily mean that his prosecution or the enforcement of his sentence will continue to be suspended, because the amendment to the Code requires the judge to receive a report from a social worker if the victim is a minor in order to determine the most appropriate penalty to be imposed on the perpetrator. The social worker can undertake a careful examination not only of the victim's social situation but also of her psychological state, in light of the amendment, so that he can monitor developments and the responses thereto. In light of all these facts, he prepares a comprehensive report for the competent judge so that he can decide on an appropriate penalty or suspend the sentence, bearing in mind the best interests of the child. The judge is required to instruct the social worker to report on the minor's post-marital psychological and social status every six months for a period of three years from the date of the judge's ruling. The prosecution or enforcement of the sentence is continued prior to the expiry of the three-year period if the marriage ends in a divorce without a legitimate ground or on account of the perpetrator of the offence, or if there is any other legitimate reason for proceeding with the prosecution or trial or with the enforcement of the sentence in light of the aforementioned periodic reports.

51. The penalties to be imposed on the perpetrator have been amended on the basis of several factors, primarily the gravity of the offence committed as well as the age group to which the victim belongs. The following three age groups were selected in line with the principles enshrined in the Act on the protection of juveniles in conflict with the law or at risk, which is in turn derived from the Convention on the Rights of the Child, a treaty that has been ratified by the Lebanese State: group I: children under 12 years of age; group II: minors in the 12 to 15 age group; group III: minors in the 15 to 18 age group. Harsher penalties have been prescribed in some of the articles contained in the relevant section, particularly for the last two age groups. The principal articles in which harsher penalties have been prescribed are: articles 505,[2] 506, 513 and 518.

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[1] Article 518: "A man who seduces a girl with the promise of marriage and deprives her of her virginity shall be liable, if the act does not demand a harsher penalty, to a term of imprisonment of at least six months and/or a fine of between three and five million Lebanese pounds (LL).

The penalty shall be a term of imprisonment of at least five years if the minor who is the victim of the offence is at least 15 years of age and less than 18 years of age.

In such cases, if a valid marriage is contracted between them, the prosecution or trial shall cease. If a sentence has been handed down, the enforcement of the sentence shall be suspended. If the offender is a minor, the judge's decision regarding suspension shall be made on the basis of a report prepared by a social worker that takes the minor's social and psychological circumstances into account.

If a decision is taken to halt the prosecution or trial or to suspend the enforcement of the sentence on account of marriage, the judge shall instruct the social worker, if the victim is a minor, to submit a report on the minor's post-marital psychological and social status every six months for a period of three years from the date of his decision.

The prosecution or enforcement of the sentence shall continue prior to the expiry of the three-year period if the marriage ends in a divorce without a legitimate ground or on account of the perpetrator of the offence, or if there is any other legitimate reason for proceeding with the prosecution or trial or with the enforcement of the sentence in light of the periodic reports referred to in this article.

If the minor is under 15 years of age, a penalty of not less than seven years of hard labour shall be imposed.

Apart from a confession, no evidence shall be accepted from the perpetrator except for letters and other documents that he has written."

[2] Article 505 of the Criminal Code: "Anyone who has intercourse with a minor who is under 15 years of age shall be liable to a penalty of temporary hard labour for a period of not less than five years. The penalty shall not be less than seven years if the minor is under 12 years of age.

Anyone who has intercourse with a minor who is at least 15 years of age and less than 18 years of age shall be liable to a term of imprisonment of between two months and two years. In such cases, if a valid marriage is contracted between them, the prosecution or trial shall cease. If a sentence has been handed down, the enforcement of the sentence shall be suspended. The judge's decision regarding

52. Furthermore, legal provisions have been amended to ensure that the concept of victim is applicable to males and females equally and without distinction.

### 6. Prosecution of sexual harassment in the workplace

53. The Ministry of State for Women's Affairs drafted a bill aimed at prosecuting sexual harassment in the workplace and in public places. At its meeting on 8 March 2017, the Government approved the bill and referred it to the Chamber of Deputies for adoption.

### 7. Statistics on the number of complaints of violence against women, including domestic violence and rape, and on the number of prosecutions and judgments awarding compensation to victims

54. There are no official statistics regarding these matters. However, prosecutions have taken place and the judiciary has handed down judgments providing women with redress and compensation for all forms of violence to which they were subjected.

## V. Right to life and prohibition of torture and other cruel, inhuman or degrading treatment or punishment

### 1. Safeguarding of the right to life

55. Kindly take note of paragraphs 47 to 60 of the report, which contain the answers to the question raised.

56. However, we have attached additional information concerning:

(a) Death penalties that were executed;

(b) Death penalties for which no draft decree was issued;

(c) Death penalties for which a decree was issued but has not been implemented;

(d) Death penalties for which a decree was issued commuting the death sentence to a penalty of hard labour for life or for a period of 20 years, in accordance with the opinion of the Pardon Commission;

(e) Death penalties approved by the Pardon Commission that were not submitted to the President of the Republic pursuant to a decision by the Minister of Justice.

### 2. Missing persons

57. The issue of the rights of persons who went missing during the civil war, which began on 13 April 1975, and the relatives' right to learn about their fate has passed through several stages during the modern history of Lebanon.

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suspension shall be made on the basis of a report prepared by a social worker that takes the minor's social and psychological circumstances into account.

If a decision is taken to halt the prosecution or trial or to suspend the enforcement of the sentence on account of marriage, the judge shall instruct the social worker to submit a report on the minor's post-marital psychological and social status every six months for a period of three years from the date of his decision.

The prosecution or trial or the enforcement of the sentence shall continue prior to the expiry of the three-year period if the marriage ends in a divorce without a legitimate ground or on account of the perpetrator of the offence, or if there is any other legitimate reason for proceeding with the prosecution or trial or with the enforcement of the sentence in light of the periodic reports referred to in this article."

58. Act No. 91/84 of 26 August 1991, which was promulgated after the end of the Lebanese civil war, established the principle of amnesty for all political crimes or crimes of a political nature that had not been committed for personal gain or benefit prior to 28 March 1991. The aim was to conclude the period of civil war and to advance the process of civil peace. (In the same context and at a later date, the Chamber of Deputies promulgated Act No. 7/2005 of 19 July 2005 granting an amnesty to Mr. Samir Geagea and his colleagues in all cases attributed to them prior to 30 December 1994.)

59. The Lebanese State was clearly endeavouring during that period to end the civil war and lay the foundations for civil peace between the various political factions. Amnesty Act No. 91/84 contained no reference to war crimes or crimes against humanity and did not provide for any special procedures in respect of missing persons. It nonetheless recognized the right of victims' relatives to claim compensation before the competent civil courts.

60. Since 1999, however, the perception of the issue of missing persons has changed from the prevailing post-war view, which was based on the official will to turn the page on the past and lay the foundations for civil peace, into an increasingly open attitude to issues pertaining to the rights of missing persons.

61. On 21 January 2000 the Government adopted Decision No. 2000/10 establishing a Commission of Inquiry to determine the fate of abducted and missing persons during the war. After gathering information and conducting investigations based on the forms filled out by the relatives of the missing persons, the Commission submitted its report to the Government on 25 July 2000. It announced the existence of mass graves in the cemetery of St. Demetrious in Achrafieh, the English Cemetery in Tahwita and the Martyrs' Cemetery in Horsh Beirut. All persons who had been missing for more than four years were considered dead.

62. The results announced in the report were met with opposition from the families of missing persons who believed that their relatives were still alive. In response to their demands, the Government established the "Commission to receive complaints from the families of the disappeared" on 5 January 2001 pursuant to Decision No. 2001/1 in order to receive requests from citizens wishing to review the situation regarding their relatives who were considered to be still alive. The Committee concluded its work on 7 June 2002 and submitted its report to the Council of Ministers.

63. Following the withdrawal of the Syrian army from Lebanon on 26 April 2005, requests to determine the fate of missing persons and detainees in Syrian prisons increased. On 5 June 2005, the Government established the Joint Lebanese-Syrian Committee to address the issue of missing persons and detainees in Syrian prisons. Efforts were stepped up to expose violations committed during the presence of Syrian forces in Lebanon. For instance, the opening of a mass grave in Yarzeh revealed the fate of a number of persons who had been missing since the events of October 1989.

64. In the same context and in line with the State's determination to find legal solutions to the issue of missing persons, the Lebanese Government signed the International Convention for the Protection of All Persons from Enforced Disappearance on 6 February 2007. On 8 August 2007 the Government issued Decree No. 618, which referred the bill concerning ratification of the Convention to the Chamber of Deputies. However, as unsound security and political conditions have paralysed the work of constitutional institutions, the Chamber of Deputies has failed to adopt a decision on ratification to date.

65. Successive governments have undertaken since 2008 to find solutions to the issue of missing persons, both those who may still be alive and those who are presumably dead.

66. The National Human Rights Plan for the period 2014–2019, which was launched in the form of a recommendation submitted to the general assembly of the Chamber of Deputies on 10 December 2012, included a special report on abducted and missing persons and persons subjected to enforced disappearance.

67. Having reviewed the evolution of the country's commitment to finding solutions to the issue of missing and forcibly disappeared persons, the Lebanese State wishes to provide the following information:

(a) Information on national and international legal texts addressing the issue of missing persons;

(b) Information on legal mechanisms for protecting the rights of missing persons and their relatives;

(c) Information concerning the right of the relatives of missing persons to be informed.

**(a) Information on national and international legal texts addressing the issue of missing persons**

68. The preamble to the Constitution affirms the commitment of the Lebanese State to United Nations international treaties that address the issue of missing persons, in particular:

- The Universal Declaration of Human Rights;
- The International Covenant on Civil and Political Rights;
- The International Covenant on Economic, Social and Cultural Rights;
- The Geneva Conventions on international humanitarian law and Protocol I Additional to the Conventions adopted in 1977.

69. Lebanon has ratified all these international instruments, and their provisions are therefore binding on the State and its official organs and constitute an integral part of its legal system.

70. At the level of national legislation, Lebanon has no comprehensive law dealing with the issue of missing persons, but relevant provisions exist in a number of laws.

71. In the area of civil law, the issue of whether a person belongs to the category of "missing" or "absent" persons falls under personal status legislation, pursuant to which they are defined as persons whose whereabouts are unknown and persons who are not known to be alive or dead (see in this connection article 33 of the Act concerning inheritance for non-Muslims of 23 June 1959, the Act regulating the Sunni and Ja'fari judiciaries promulgated on 16 July 1962 and the Druze Personal Status Act of 24 February 1948).

72. On 15 May 1995 the Chamber of Deputies adopted Act No. 434, which amended both the Act regulating the Sunni and Ja'fari judiciaries and the Act concerning inheritance for non-Muslims, and authorized the competent courts, based on a request from the relatives, to declare the death of the person who had disappeared and concerning whom no information had been available for 4 or more years (it should be noted that the time period for the Druze community is not less than 10 years). Accordingly, the legal assets of absent or missing persons can be distributed among their heirs on the same basis of those of a deceased person.

73. With regard to criminal law, articles 549 and ff. of the Criminal Code prescribe penalties for the crime of intentional homicide, and article 569 of the Code prescribes penalties for abduction and enforced disappearance. It should be noted that abductions and enforced disappearances are deemed to be continuing offences and are therefore excluded from the scope of Act No. 91/84 and are not eligible for a general amnesty (see in this connection the ruling of the Criminal Court of Mount Lebanon of 13 December 2001 and the ruling of the Southern Criminal Court of 12 June 2003).

74. A bill providing for the establishment of an independent national commission to investigate the fate of missing persons and for granting reparations to the victims' relatives is currently being considered. Furthermore, pending enactment of the law, a cooperation protocol between the Lebanese Government and the International Committee of the Red Cross (ICRC) is being studied by the Council of Ministers, the aim being to collect DNA samples from the families of missing persons that can be used when the law establishing a national commission is promulgated.

**(b) Information on legal mechanisms for protecting the rights of missing persons and their relatives**

75. As noted above, successive governments (in 2000, 2001 and 2005) established government committees to respond to requests from the families of missing persons for information regarding the fate of their relatives. In view of the fact that those committees failed to achieve the goal assigned to them, the country's governments have undertaken since 2008 to resolve the issue of missing persons in an integrated and comprehensive manner, in line with applicable international standards.

76. The Lebanese authorities, specifically the country's executive and legislative authorities, are taking vigorous action to establish a legal framework that safeguards the rights of missing persons and their relatives.

77. Legal disagreements have arisen regarding the authority that should be mandated to address this important national issue.

78. A draft decree drawn up by the Minister of Justice on the establishment of an independent national commission on forcibly disappeared and missing persons has been submitted to the Council of Ministers. The commission will be responsible for determining the fate of individuals who disappeared or went missing between 14 April 1975 and 26 April 2005 and, to that end, will establish a comprehensive database on the individuals to be incorporated in the central registry. The commission will also establish standards for the management and protection of the information.

79. The draft decree met with opposition from the families of missing persons. The Council of Ministers therefore took a number of administrative steps, including the following, to ensure that the rights of missing persons and their relatives were fully upheld:

- A decision issued on 25 July 2012 provided for publication of the draft decree and called on civil society organizations to submit comments thereon.
- A decision issued on 4 October 2012 provided for the establishment of a ministerial body, chaired by the Minister of Justice and composed of a Minister of State, the Minister of Social Affairs and the Minister of Labour, to study the draft decree on the establishment of the independent national commission on forcibly disappeared persons and to submit a report containing proposals to the Council of Ministers.
- The aforementioned ministerial body received comments from a number of national and international civil society organizations concerned with the issue of missing persons, including in particular: the Committee of the Families of Kidnapped and Disappeared Persons in Lebanon; the Support for Lebanese in Detention and Exile Association; the Committee of Families of Detainees in Syrian Prisons; Legal Agenda; the International Committee of the Red Cross; and the International Center for Transitional Justice.

80. In addition, the Minister of Justice transmitted the draft decree to the Council of State so that it could issue an advisory opinion on the text. The Council of State, in its advisory capacity, issued Opinion No. 2012-2013/146 of 4 February 2013, in which it expressed the view that the issue of missing persons should be addressed pursuant to a law promulgated by the legislative authorities rather than pursuant to a decree issued by the executive authorities, since it was directly related to issues of human rights and fundamental freedoms. It would issue comments on the substance if the Government decided to adopt the decree.

81. It should be noted in that connection that civil society organizations believe that the issue of missing persons should be dealt with by the legislative authorities in accordance with the law. The organizations submitted proposed legislation to the Chamber of Deputies, which is currently reviewing the proposal together with other proposed legislation.

82. The relatives of missing persons have been able to resort to the courts to establish their right to be informed of the fate of their relatives.

**(c) Information concerning the right of the relatives of missing persons to be informed**

83. The right of the families of missing persons to know the fate of their relatives is one of the fundamental rights recognized under international humanitarian law and international human rights law. However, there are no laws in Lebanon that clearly and explicitly uphold that right. Instead, the Lebanese judiciary has issued numerous judicial decisions in which the right has been upheld and recognized.

84. On 25 July 2000, the Commission of Inquiry established pursuant to Decision No. 2000/10 to determine the fate of abducted and missing persons issued the report that had been commissioned by the Government. Most of the report remained confidential, however. The following key issues were emphasized by the Commission in the report's conclusions:

- The corpses of individuals executed by the various militias in the Lebanese civil war were buried in different areas of Lebanon or even thrown into the sea.
- There are numerous mass graves in different parts of Lebanon. The report mentions three mass graves, namely those in Mar Meter, Achrafieh, the English Cemetery in Tahwita and the Martyrs' Cemetery in Horsh Beirut.
- In light of medical opinions stating that individuals cannot be identified more than 20 years after their deaths, all persons who had been missing for more than 4 years were presumed dead.

85. The report remains confidential and has not been published by the Government. However, the Committee of the Families of Kidnapped and Disappeared Persons in Lebanon and the Support for Lebanese in Detention and Exile Association filed a petition for a summary judgment to protect the graves in Mar Meter, Achrafieh, and in the Martyrs' Cemetery in Horsh Beirut. The Beirut summary judge issued a judicial decision on 23 October 2009 ordering the clerk of the court to obtain a copy of the complete investigation file in order to uphold the right of the relatives of missing persons to be informed of the fate of their relatives.

86. On 24 December 2009, the aforementioned organizations appealed to the Council of State to compel the State to hand over a copy of the complete file on the investigations concerning missing persons. The Council of State responded to their appeal on 4 March 2014 by issuing a historic decision that upheld the right of the relatives of missing and forcibly displaced persons to be informed of their fate.

## 3. Enactment of a law criminalizing torture that is in conformity with international standards

87. On 29 September 2017, the Chamber of Deputies adopted a law criminalizing torture that is in conformity with article 7 of the Covenant.

88. The law includes a definition of the offence of torture and other cruel, inhuman or degrading treatment or punishment, as well as provisions on mitigating circumstances, unlawful orders, prescription periods and procedures for investigating torture offences.

## 4. Preventing and combating torture

89. The Lebanese State is taking vigorous action to combat torture and all forms of ill-treatment by adopting preventive and punitive measures and working to improving conditions for detainees in Lebanese prisons.

**(a) Preventive measures to combat torture**

90. The preventive measures taken relate, primarily, to restructuring of the Department of Forensic Medicine and promotion of the use of forensic evidence to ensure that perpetrators of torture offences are held to account and that torture victims receive compensation.

91. The State is aware that the most effective means of proving that a perpetrator committed the offence of torture and of upholding the victim's rights (or those of the victim's relatives in the event of his or her death) consists in the use of expert scientific evidence provided by a forensic physician who performs clinical examinations of the victim and determines any physical injury suffered, the approximate date of its occurrence and the type of instrument (blunt or sharp, for example) that might have caused the injury.

92. The Ministry of Justice, recognizing the essential role of forensic evidence in holding perpetrators of torture to account and helping victims to claim compensation for their injuries, cooperates with civil society in rehabilitating victims of violence and torture and seeks to restructure the Department of Forensic Medicine in line with the Istanbul Protocol (Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment), with the support of the European Union and in cooperation with various bodies.

93. With this aim in view, the Ministry of Justice established a special committee composed of experts in law and forensic medicine to work in partnership with various bodies to achieve the following aims:

- Reorganization of the administrative and technical structure of the Department of Forensic Medicine (mention should be made in this context of a project supported and funded by the European Union and other bodies for automating the Ministry of Justice, including the Department of Forensic Medicine, which is to have a database containing information on all matters relating to forensic medicine);
- Specification of the objectives of the Department of Forensic Medicine and development of an action plan;
- Establishment of criteria for the appointment of forensic physicians;
- Development of a code of conduct for forensic physicians in line with the principles enshrined in the Istanbul Protocol;
- Establishment of an administrative unit tasked with arranging in-service training for forensic physicians.

94. A 30-month timeline has been set for the implementation of the project.

95. With a view to bolstering the State's efforts to combat and prevent torture by assisting victims and ensuring that legal frameworks are in place to enable them to assert their rights vis-à-vis the perpetrators of torture offences, the Ministry of Justice, with the support of the European Union and in partnership with civil society, established a forensic medicine centre at the Palais de Justice in Tripoli in 2017.

96. The forensic medical centre will serve as a model project. It will be piloted for two years and then extended, following an assessment, to courts of justice in all governorates of Lebanon. The centre will be provided with technical equipment (medical apparatus) and staffed by appropriate personnel (two forensic physicians for carrying out physical examinations, two for conducting psychological assessments, two social workers and two legal experts).

97. In addition to providing the opportunity for detainees to undergo a medical examination free of charge, the centre will perform the following important functions:

- Detection of communicable diseases in prisons;
- Detection of cases of torture or ill-treatment (physical or psychological torture);
- Documentation of cases of torture in accordance with the standards laid down in the Istanbul Protocol;
- Provision of legal advice to detainees in cases where none is available;
- Preparation of an annual report on all abuses detected through medical examinations (without naming the persons concerned, unless they have given their consent) and transmission of the report to the Ministry of Justice for referral to the competent judicial authorities so that the necessary investigations can be conducted and perpetrators of torture can be prosecuted and held to account.

98. In addition, studies were undertaken by the Ministry of Justice in conjunction with forensic physicians in order to submit proposals for legislation concerning the requirements of forensic physicians and procedures for the performance of their duties, particularly in cooperation with government hospitals and the Ministry of Health, the aim being to provide the physicians and victims with the requisite facilities.

**(b) Procedures of the Internal Security Forces for combating torture**

99. The Directorate General of the Internal Security Forces has established an internal Monitoring Committee chaired by the Inspector General. The Committee against torture in the Internal Security Forces is tasked with performing preventive, advisory, monitoring and documentary functions.

100. The Convention against Torture has also formed an integral part of the legal framework of the Internal Security Forces since all of its provisions were adopted and implemented pursuant to a service note dated 9 July 2014.

**(c) Procedures for holding perpetrators of torture to account**

101. The Lebanese judiciary hands down guilty verdicts against security service personnel who perpetrate acts of torture in cases where a victim lodges a complaint of torture and there is sufficient evidence to convince the court that the offence occurred (the judgment handed down by the Beirut Appeal Court for Misdemeanours on 14 March 2013 may be consulted in this regard).

102. There are no official statistics on the number of complaints filed and rulings handed down.

103. When the criminal courts are presented with evidence that a detainee has been subjected to torture for the purpose of eliciting a confession, a forensic physician is appointed to confirm the fact and the file is referred to the competent judicial authorities for investigation.

104. When the leaking of videos to the media drew attention to acts of torture that had been perpetrated in Roumieh prison following a riot by prisoners on 20 April 2015, the crime was investigated by the Office of the Public Prosecutor at the Court of Cassation. The security service personnel accused of torture were brought before the first military investigating judge, who issued an indictment against them on 6 July 2015 and referred them to a competent court to stand trial.

## 5. Establishment of the national authority for the prevention of torture

105. On 27 October 2016, the Chamber of Deputies adopted Act No. 62 establishing the National Human Rights Commission, which oversees the Committee for the Prevention of Torture and which is responsible, inter alia, for protecting and promoting human rights in accordance with established constitutional and international standards, monitoring violations, and receiving and taking action on complaints.

106. Act No. 62 was promulgated on the basis of the Paris Principles as well as the principles enshrined in the Optional Protocol to the Convention against Torture that are applicable to the establishment of an independent national mechanism for the prevention of torture.

107. Following the promulgation of the Act establishing the Commission, the United Nations Development Programme (UNDP) and the Directorate General of the Internal Security Forces developed a joint project to provide training for officers and members of the Directorate on their role and responsibilities stemming from the Act and those of the Commission and the Committee for the Prevention of Torture.

### 6. Criminalization of abortion

108. Abortion is criminalized under articles 539 to 546 of the Criminal Code because the issue is linked to the beliefs held by Lebanon's recognized religious denominations.

109. The following acts are criminalized under the Criminal Code:

- Publicizing, promoting or facilitating the use of means of abortion;
- Selling, offering for sale or acquiring for the purpose of sale materials intended for carrying out abortions or facilitating in any way the use of such materials;
- Use by a woman of any means to induce her own abortion or consent by a woman to the use of such means by another person;
- Performing by any means or attempting to perform an abortion, irrespective of whether or not the woman has consented to the procedure.

110. Attention should be drawn in this connection to the following points:

(a) A woman who induces her own abortion to preserve her honour or a person who performs an abortion to preserve the honour of a descendant or relative to the second degree benefits from mitigating circumstances;

(b) A harsher penalty is prescribed if the offence of abortion is committed by a doctor, surgeon, midwife, pharmacist or one of their employees, or if that person instigates or participates in the offence. Offenders may also be prohibited from practising their professions or occupations, even if they do not require a certificate or a licence from the authorities for the purpose;

(c) Lebanese law permits abortions to be performed in all cases in which the pregnancy places the woman's life in danger.

## VI. Liberty and security of person and treatment of persons deprived of their liberty

### 1. Arbitrary and extrajudicial arrest and detention by security forces or certain armed groups

111. Attention is drawn in this regard to the State party's report. We also wish to underscore that the Lebanese Code of Criminal Procedure clearly and explicitly prohibits all forms of secret detention carried out by judicial police officers or extrajudicial actors.

112. Article 8 of the Constitution, the country's supreme legal instrument, stipulates that: "The right to personal liberty shall be guaranteed and protected by law. No one may be arrested, imprisoned or detained except as provided for by law and no offence or penalty may be established other than by law."

113. The law prohibits the arbitrary detention of persons residing in Lebanese territory by providing for judicial control and oversight of the actions of judicial police officers and by specifying the period during which persons may be held in custody in connection with the preliminary investigation by judicial police officers. That period may not be altered or exceeded.

114. Judicial police officers who infringe the legal provisions and principles governing pretrial detention, for instance by maintaining a person in custody without a court order, are held to account and prosecuted for the offence of deprivation of liberty defined in article 367 of the Criminal Code. Disciplinary measures are also imposed, as expressly provided for in article 48 of the Code of Criminal Procedure.

115. The Internal Security Forces adopted a Code of Conduct in 2012 based on international principles and norms. Members of the Security Forces are held accountable in accordance with these rules.

## 2. Increase in the number of persons being held in pretrial detention

116. Since the beginning of the Syrian crisis more than six years ago, Lebanon has faced unprecedented existential threats and challenges. The most prominent of these include the growing threat of terrorism within the country as well as on its eastern and northern borders, including terrorism perpetrated by terrorist cells, which are closely monitored and dismantled by the Lebanese security forces. Indeed, hardly a week goes by without the discovery of another terrorist cell seeking to undermine the stability and security of Lebanon. The Lebanese army has also striven to combat terrorist groups that have attacked border towns and villages and abducted soldiers.

117. The major challenges faced by Lebanon also include the negative repercussions of the Syrian crisis in the security, economic, social and even political fields. Lebanon has actually found itself on the front lines of the refugee crisis and has to deal with a huge influx of Syrian refugees into its territory. The influx is held to be on a scale that an entire continent would find difficult to address. How can a country with a total land area of only 10,452 square kilometres and a population of some 4 million residents absorb a number of Syrian and Palestinian refugees that is equal to more than half its population? These exceptional circumstances have compelled Lebanon to reorder its priorities, and the overcrowding of Lebanon's prisons, resulting, inter alia, from the placing of increasing numbers of individuals in pretrial detention, has exacerbated the challenges faced by the country.

## 3. Alternatives to detention, and information regarding the requirement for an investigating judge to consult the Office of the Public Prosecutor before ordering an alternative measure to detention

118. During the judicial investigations, a competent judge may order an alternative to detention. The most common alternatives prescribed are release on bail, imposition of a travel ban and surrender of the suspect's passport, and, in the case of juveniles, release based on a bond and placement with the suspect's family.

119. The Ministry of Justice is also considering alternatives to detention, in cooperation with civil society organizations, such as the establishment and implementation of a system to monitor accused persons and keep track of their movements.

120. The requirement that an investigating judge must consult the Office of the Public Prosecutor before ordering an alternative measure to detention is prescribed by the Code of Criminal Procedure, in view of the fact that the Office of the Public Prosecutor is responsible for conducting prosecutions against persons charged with certain offences.

121. It should be noted that the opinion issued by the Office of the Public Prosecutor does not oblige the investigating judge to order an alternative measure to detention. However, the Office of the Public Prosecutor is legally entitled to lodge an appeal against a ruling that runs counter to its opinion.

122. Detainees in military prisons may submit a request for release from the prison in which they are detained without the support of a lawyer.

## 4. The right to a lawyer

123. Article 47 of the Code of Criminal Procedure enshrines the right of a detainee to meet with a lawyer appointed by a declaration noted in the record. The lawyer is not entitled to attend investigatory interviews conducted by judicial police officers during the preliminary investigations.

124. The lawyer is, however, entitled to attend interviews conducted by the Public Prosecutor (article 49 of the Code of Criminal Procedure) or the investigating judge during the investigation stage. He is also entitled to make comments and ask questions.

### 5. The growth of private security groups

125. The Lebanese State affirms that the power of detention lies exclusively with the judiciary. Any arrest that is not issued pursuant a judicial decision constitutes a criminal offence that is punishable by law.

### 6. The 81 deaths that occurred in the prison system

126. The Lebanese authorities confirm that all deaths that have occurred in Lebanese prisons were due to natural causes. None of those deaths occurred as a result of acts of torture or inhuman treatment.

### 7. The detention of juvenile offenders and their segregation from adult offenders

127. The authorities make every effort to ensure that juvenile offenders are detained separately from adult offenders. Furthermore, competent judges order juveniles to be held in pretrial detention only in exceptional circumstances, namely when there is no alternative to detention that is in the interests of the minor concerned or the community.

128. Law enforcement officials seek to ensure that juvenile detainees are entirely segregated from adults and are detained in facilities reserved for them, such as the juvenile ward in Roumieh prison or military prisons. A financial agreement was concluded in this connection between the Ministry of the Interior and Municipalities and the European Union (EN/2016/039-626). One of its objectives is to create a centre in Warwar, instead of in Roumieh prison, for the rehabilitation of juvenile offenders in line with international standards and Lebanese legislation. The Ministry of the Interior and Municipalities and the Ministry of Justice have established a joint committee to serve as a buttress for the development of the juvenile centre. It should also be noted that on 24 November 2017 the Ministry of Justice signed a cooperation agreement with the United Nations Children's Fund (UNICEF) on the juvenile justice system, which has been implemented since early 2018. The aim is to create juvenile-friendly courtrooms that ensure segregation from adults, to promote alternatives to deprivation of liberty, to prepare a comprehensive rehabilitation programme, and to promote capacity-building for juvenile judges, social workers and all other staff employed in the sector. Steps are also being taken to expedite trials and to develop special detention facilities for juveniles in pretrial detention. Emphasis is placed on international legal obligations such as the requirement to notify the family of the arrested juvenile and to arrange for the presence of a social assistant. In addition, training courses are provided for members of the security forces, and memorandums of understanding are signed with relevant international organizations such as the Lebanese Red Cross.

## VII. Elimination of servitude and trafficking in persons

129. Attention is drawn in this regard to paragraphs 66 and 67 of the report, which provide responses to the questions concerning human trafficking. The following matters should also be highlighted:

- There are no official statistics in Lebanon on the number of cases of exploitation and trafficking in persons, particularly among groups at risk, such as displaced Syrians. However, we wish to draw attention in this context to Lebanese State legislation, which prohibits slavery and human trafficking. Act No. 164 of 24 August 2011, entitled "Prosecution of the Crime of Trafficking in Persons", contains a broad and precise definition of the crime of trafficking in persons and prescribes harsh penalties for the perpetrators of such crimes. The Act is applicable to all persons in the territory of the Lebanese State, regardless of whether they are Lebanese, displaced Syrians or persons of any other nationality. The joint Border Control Committee established by the Lebanese Army and the Internal Security Forces developed a national border management and control strategy in cooperation with

the European Union. Training courses were organized with the Office of the United Nations High Commissioner for Refugees (UNHCR) for border units in order to protect displaced persons and vulnerable groups and to combat trafficking in persons.

- Lebanese law continues to prosecute clandestine prostitution, although Act No. 164 of 2011 on combating trafficking in persons provides for procedures to protect victims of trafficking. Victims are confidentially referred to private associations that ensure their protection. Furthermore, victims of human trafficking are exempt from prosecution pursuant to Act No. 164 of 2011. It should also be noted that a bill aimed at exempting victims of prostitution from prosecution has been submitted to the Chamber of Deputies.
- The Ministry of Justice has entered into contractual arrangements with civil society institutions and associations involved in providing assistance and protection to women and child victims of trafficking, and has adopted terms for the provision of such assistance, in accordance with Decree No. 9082 of 10 October 2012.
- The Ministry of Justice also enters into annual contractual arrangements with civil society institutions specializing in the protection of vulnerable young people, including juveniles at risk of human trafficking. It undertakes regular assessments of the institutions' work and decides, in light of the outcome, whether the contract should be renewed.
- The Ministry of Justice has participated in the training of Lebanese Army officers of different ranks.
- The Ministry of Justice has participated in the training of flight attendant supervisors in cooperation with Middle East Airlines and the International Organization for Migration (IOM).
- The Ministry of Justice participated in the development of a practical guide on the crime of trafficking in persons in cooperation with relevant ministries (Ministry of the Interior, Ministry of Social Affairs and Ministry of Labour), the Directorate General of the Internal Security Forces, the Directorate General of Public Security, the Higher Council for Childhood and the Institute for Human Rights of the Beirut Bar Association. It also participated in the development of a practical guide on characteristics of the crime of trafficking in persons in cooperation with the Ministry of Social Affairs, the Ministry of Labour, the Lebanese Army Command, the Directorate General of the Internal Security Forces, the Directorate General of Public Security and the Institute for Human Rights of the Beirut Bar Association. The guide is designed to serve as a tool for frontline workers with possible victims of human trafficking, for persons tasked with tracking down and prosecuting traffickers, and for anyone who may be a potential victim of human trafficking by virtue of his or her functions or activities. The characteristics can provide early warnings, revealing cases involving trafficking in persons, and enabling them to be distinguished from other offences so that the perpetrators can be prosecuted and the victims provided with support and assistance. The indicators are not limited to but are most commonly used to detect trafficking cases, and are applicable to victims of trafficking in persons regardless of their gender, nationality and age. The Ministry of Justice, in cooperation with the competent authorities, has also participated in the development of a draft general strategy to combat human trafficking.
- The Lebanese judicial authorities, acting through public prosecutors' offices at courts of appeal in the country's governorates and investigating judges, investigates human trafficking offences, prosecutes offenders and refers them to the criminal courts, which impose appropriately harsh penalties. It should be noted that the Office for the Protection of Decency of the Internal Security Forces has been renamed the Office to Combat Trafficking in Persons and to Protect Human Decency. Continuous training courses are provided for the Office personnel in coordination with the Ministry of Justice, the Ministry of the Interior and relevant civil society organizations.
- No foreigner is denied a residence permit without good reason.
- The Ministry of Labour drafted a bill regulating decent work for domestic workers, in accordance with the International Labour Organization (ILO) Convention

concerning decent work for domestic workers, 2011 (No. 189), for which Lebanon voted at the 100th session of the International Labour Conference in Geneva, as well as Domestic Workers Recommendation No. 201. The draft was referred to the Council of Ministers for inclusion in its agenda and adoption.

- It should be noted that the Minister of Labour, the President of the General Confederation of Lebanese Workers and the Director of the ILO Regional Office in Beirut signed a Memorandum of Understanding concerning the Lebanon Decent Work Country Programme on 2 April 2017.
- The National Steering Committee on the Situation of Migrant Domestic Workers has been reactivated with a view to finding an alternative to the sponsorship (*kefala*) system. The Committee is composed of 25 bodies (competent ministries, the Syndicate of Domestic Worker Recruitment Agencies, civil society organizations, international and regional organizations, and the embassies concerned).
- Furthermore, many decisions have been issued by the Minister of Labour, for instance Decision No. 168/1 of 27 November 2015, which prohibits proprietors of domestic worker recruitment agencies from recruiting women workers through advertisements in the media. The Ministry is currently reorganizing the work of private recruitment agencies to ensure that it complies with international standards aimed at combating trafficking in persons.
- A series of protective and proactive measures have been taken on behalf of domestic workers by the Directorate General of Public Security and the Ministry of Labour. For instance, a domestic worker may not be granted a visa to enter Lebanon if a security or legal problem is encountered with the Lebanese employer, if his material and social status precludes him from recruiting a domestic worker, or if he is found to have ill-treated a domestic worker in the past. Investigative action is taken following the arrival of domestic workers to ensure that the work imposed by their employer is acceptable and that they are properly treated.
- Lebanon has signed bilateral agreements with a number of countries that cater to the needs of migrant workers, including Egypt and Syria. The Ministry of Labour is also conducting negotiations with a number of embassies with a view to concluding agreements on protection of the rights of domestic workers with a number of countries, including Sri Lanka, the Philippines, Ethiopia, Madagascar, Bangladesh, Cambodia, Uganda, the United Republic of Tanzania, Cameroon, Turkey and Iraq.

## VIII. Rights of refugees and asylum seekers and freedom of movement

130. Attention is drawn in this regard to paragraphs 21 to 36 of the State party's report, which contain replies to all the questions raised. The following points should, however, be emphasized:

1. Although Lebanon is a small and densely populated country with meagre capacities, and although it has not signed the 1951 Convention relating to the Status of Refugees or the 1967 Protocol thereto, it has refrained from closing its borders to displaced Syrians. On the contrary, Lebanon has admitted more than 1.5 million displaced Syrians, notwithstanding the major social and economic challenges resulting from the influx.

2. The Lebanese authorities are making every effort to ensure that the rights of displaced persons are protected and upheld at all levels.

3. The principle of non-refoulement is fully respected by the Lebanese judicial and administrative authorities. No persons may be deported from Lebanese territory if there is any reason to believe that they will be subjected to torture in their country. Since January 2015, however, specific criteria have been applicable to the admission of Syrian citizens into Lebanon, in particular the lawfulness of their departure from the Syrian Arab Republic. The Lebanese State therefore reaffirms that reports indicating that displaced persons have not been admitted or that the Lebanese State has failed to respect the principle of non-refoulement are unsubstantiated. It should be noted that the Directorate General of Public

Security has taken a number of decisions concerning the time period for renewal of the residence permits of Syrian nationals residing in Lebanon. The most recent decision, taken on 3 January 2018, extended the renewal deadline until 31 March 2018. It is also possible to renew Lebanese residence permits and to change sponsors without departing for the Syrian Arab Republic. This is a great relief for displaced Syrians who genuinely fall into that category and who are afraid to return to the Syrian Arab Republic. In addition, the Lebanese Directorate General of Public Security issued a decision on 10 February 2017 granting residence permits to displaced Syrians who are registered with UNHCR or who submit a document proving their registration with UNHCR prior to 1 January 2015.

4. Nobody may be detained under Lebanese law without an official arrest warrant. So-called administrative detention does not exist. It should be noted that failure to renew a residence permit and the unlawful entry into or exit from Lebanon constitute criminal offences and are subject to prosecution before a competent court.

# IX. Access to justice, the independence of the judiciary and the right to a fair trial

## 1. Independence of the judiciary

131. It should be noted that the legislative authorities have implemented a number of initiatives to ensure that the judiciary remains independent of the executive and legislative authorities. The initiatives uphold international principles governing the independence of the judiciary, including criteria for the appointment and non-removal of judges, as well as internationally recognized material and moral safeguards.

## 2. Jurisdiction of the military court

132. Military Justice Act No. 24 of 13 April 1968 regulates the proceedings of the military court and specifies its territorial and substantive jurisdiction. Responsibility for any amendment to the Act or its repeal lies with the Chamber of Deputies. Three bills on the abolition of the military court and the restoration of jurisdiction over a number of offences to the courts of justice are currently being discussed in the Chamber of Deputies. The military court handed down a ruling on 20 March 2017 during the trial of civilian activists to the effect that it lacked jurisdiction to consider articles 346 to 348 of the Criminal Code concerning demonstrations.

## 3. Upholding foreign nationals' right to litigation and their right to present a defence before the courts

133. Article 9 of the Code of Civil Procedure guarantees the right to litigate (the right of access to justice and the right to defence) to all persons resident in Lebanon without discriminating between Lebanese citizens and foreign nationals. The Legal Fees Act contains no provisions that discriminate between Lebanese citizens and foreign nationals in terms of legal expenses and fees. However, the Code of Criminal Procedure stipulates that foreign nationals who file complaints with the criminal courts must submit additional surety for acceptance of their complaint (arts. 68 and 155). The Code exempts foreign nationals from payment of the surety if the offence is a misdemeanour and if the judge considers that there are sufficient grounds to justify the exemption. It should be emphasized that the aim of the surety is to prevent abuse of the right to litigate. Foreign nationals are required to pay an additional surety because they are able to leave the country after filing an arbitrary complaint.

134. Pursuant to article 416 of the Code of Civil Procedure, foreign nationals who are legally resident in Lebanon can benefit from legal aid subject to the principle of reciprocity. Moreover, when counsel is appointed in criminal cases on behalf of persons who are unable to afford a lawyer, no distinction is made between Lebanese citizens and foreign nationals.

135. Legal aid is provided to all detainees, without discrimination on grounds of nationality, in coordination with the Ministry of the Interior (the Human Rights Division of the Internal Security Forces) and civil society organizations.

## X. The right to privacy

136. The Constitution and Act No. 140 of 1999 both guarantee the right to privacy. Act No. 140 stipulates that: "the right to confidentiality of information transmitted by any means of communication shall be upheld".

137. The right to confidentiality of communications is protected by law. Communications may not be subjected to any type of wiretapping, surveillance, interception or disclosure save in the circumstances specified in Act No. 140, that is to say pursuant to a judicial or administrative decision.

138. An administrative decision authorizing the interception of communications may be issued by either the Minister of the Interior and Municipalities or the Minister of Defence, on condition that approval has been granted by the Prime Minister.

139. The decision must be issued in writing and reasoned on the basis of a need to gather information relating to action to combat terrorism, State security offences or organized crime.

140. Communications may be intercepted for a period that does not exceed two months. The period may be extended only in accordance with the same terms and conditions.

141. The Act also provides for the establishment of an independent administrative body, composed of the First President of the Court of Cassation, the President of the State Shura Council and the President of the Audit Court, to ensure the proper application of the provisions of Act No. 99/140 and to verify the legality of the procedures for the administrative interception of communications.

142. Decree No. 15281 concerning the rules of procedure of the independent Commission tasked with monitoring the legality of the procedures for administrative interception of telephone communications was promulgated on 1 October 2005.

143. Decisions regarding the interception of communications must be notified within 48 hours to the President of the Commission together with all relevant documentation.

144. Any interested party may also consult the President of the Commission, which may not disclose the substance of the consultation to any other authority.

## XI. The right to freedom of expression

145. Freedom of expression in Lebanon is safeguarded by the Constitution and domestic legislation.

146. Use of the media or the Internet to criticize the President of the Lebanese Republic, politicians or foreign heads of State is not prohibited, and no penalty is prescribed in the Criminal Code for mere criticism, which falls within the framework of freedom of expression. Penalties are, however, prescribed in the Code for the offences of libel, slander and defamation.

147. This in no way constitutes a violation of the right to freedom of expression, especially since that right must be exercised within internationally recognized bounds so that no damage is caused to others or to public order.

148. We may also reaffirm that persons are summoned by the Cybercrime Centre of the Internal Security Forces only in connection with offences perpetrated via the Internet. They are not summoned merely for making critical statements.

149. With regard to freedom of the media, the requirement to obtain a licence in advance should not be interpreted as imposing restrictions on freedom of opinion and

communication in Lebanon, given that all political parties and religious communities enjoy complete freedom to express their opinions via licensed television and radio stations.

150. Prior approval for the dissemination of artistic or intellectual works must be obtained from the Director General of the Directorate General of Public Security. An artistic or intellectual work may be banned if it poses a threat to security, national sentiment or public morals or if it could provoke sectarian strife, in accordance with the restrictions that are permissible under international human rights law.

151. No bill on the establishment of an independent authority tasked with granting licences or prior approval is currently under consideration. Given the wide scope of the freedoms enjoyed in Lebanon, it is not believed that the promulgation of such an act is necessary.

152. Lastly, it should be noted that, on 10 February 2017, the Chamber of Deputies adopted Act No. 28 concerning the right of access to information. It is also studying a bill aimed at protecting whistle-blowers in order to strengthen freedom of expression and facilitate efforts to combat corruption.

## XII. The right to freedom of assembly

153. Article 13 of the Lebanese Constitution stipulates that: "Freedom to express one's opinion orally or in writing, freedom of the press, freedom of assembly and freedom of association shall be guaranteed within the limits laid down by law." Article 83 of the Labour Code promulgated on 23 September 1946 grants members of all occupational categories, both employers and employees, the right to establish a union or association with legal personality and the right to litigate.

154. The Lebanese Government ratified the ILO Right to Organize and Collective Bargaining Convention, 1949 (No. 98) by Legislative Decree No. 70 of 25 June 1977.

155. A bill was referred to the Chamber of Deputies in 2013 concerning accession to the ILO Freedom of Association and Protection of the Right to Organize Convention, 1946 (No. 87).

156. The Lebanese authorities have undertaken to protect and guarantee the right to peaceful assembly provided that all restrictions designed to maintain security and public order and to protect the rights and freedoms of others are respected.

157. A great deal of criticism has recently been expressed regarding the violation by the law enforcement authorities of the right of assembly and peaceful protest during the demonstrations calling for an end to the garbage crisis.

158. It should be noted that:

1. Not all the gatherings were peaceful; in some cases, law enforcement officers and private property were attacked.

2. Any assault or excessive use of force against a citizen by law enforcement officers is subject to review by the courts in order to ensure accountability and to compensate the victims.

3. The courts have handed down numerous judgments imposing penalties on law enforcement officers found to have used excessive force against demonstrators.

4. The Ministry of the Interior, in coordination with the British Embassy's policing support team, issued a manual on the management of public security operations and the training of law enforcement personnel on their roles and responsibilities during the organization of demonstrations, in accordance with international norms, in particular the New York Principles on the Use of Force and Firearms by Law Enforcement Officials and the Code of Conduct for Law Enforcement Officials.

159. The League of Public Administration Employees was established pursuant to amendment No. 1619 of 2012 to the announcement establishing the former body (No. 378

of 8 October 1993), which was called the Association of Graduates and Trainees of the National Institute for Administration and Development.

160. Although, in theory, the law prohibits public-sector employees from establishing associations or going on strike, in practice public-sector employees have held numerous strikes. The most recent was held in September 2017 to support demands for a rise in the minimum wage and for salary increases.

161. With regard to the right of foreign nationals to freedom of association, attention is drawn to the information contained in paragraph 35 of the State party's report. They can actually join any union in Lebanon that has been licensed by the Ministry of Labour.

## XIII. Rights of the child and forced marriages

### 1. Non-registered children

162. The Ministry of Justice has attached special importance to the issue of undocumented persons and the Minister of Justice issued three legal instructions in that regard in 2017:

- The first legal instruction, addressed to the Supreme Judicial Council for circulation to judges, underscores that the files of undocumented persons must be processed expeditiously.
- The second legal instruction, addressed to the Office of the Public Prosecutor at the Court of Cassation for circulation to Court of Cassation prosecutors in the country's governorates, stipulates that appeals may not be lodged against judicial rulings providing for the registration of undocumented persons except in cases of extreme necessity.
- The third legal instruction, addressed to the Ministry of the Interior and Municipalities, underscores that administrative and judicial measures for registering undocumented persons must be completed expeditiously.
- The Ministry of Justice participated in workshops for lawyers and mayors on procedures for registering persons entitled to Lebanese citizenship in the civil registry.

163. On 19 January 2018, the Director General of Personal Status issued a circular prohibiting inclusion of the term "illegitimate child" in personal status data for identity cards and for individual and family registers. It should be replaced with the words "not eligible for inheritance", although the term "illegitimate child" may be included in the notes section at the request of the competent judicial authorities in inheritance cases or at the request of the administration. The same applies to an adopted child.

### 2. Children born to displaced Syrians

164. On 8 February 2018, the Council of Ministers approved a new procedure proposed by the Ministry of the Interior and Municipalities for registering children born to displaced Syrians. It requires that such children should be registered in the records of foreigners compiled by the Directorate of Personal Status in the Ministry of the Interior and Municipalities. The data are then transmitted through the Ministry of Foreign Affairs and Emigrants to the Syrian Embassy in Lebanon so that they may be registered in their home country.

### 3. Underage marriage

165. A group of parliamentarians has sponsored a bill on raising the minimum age of marriage for girls and boys to 18 years. The bill has been submitted to the competent parliamentary committees for review prior to its adoption by the Chamber of Deputies. A

bill to prohibit marriage of persons under the age of 18 is currently being discussed in the Administrative and Justice Committee. Its provisions are applicable to both girls and boys.

166. It should also be noted that Act No. 58 of 19 October 2017 amending the Druze Community Personal Status Act of 24 February 1948 raised the marriageable age to 15 years for females and 16 years for males.

### 4. Marriages among displaced Syrians

167. The failure to register marriages among displaced Syrians with the competent Lebanese authorities precludes the possibility of ascertaining the number of forced marriages and child marriages. This prompted the Council of Ministers to mandate the Ministry of the Interior and Municipalities to establish the requisite birth registration procedure, so that all marriages conducted since 2011 are necessarily registered.

## XIV. The right to participate in public life

168. There are no legal provisions preventing any Lebanese national who meets the prescribed legal requirements from standing as a candidate and voting in elections. There are no discriminatory provisions in Lebanese law preventing any Lebanese national from exercising his or her right to vote and to stand for election.